

FOREIGN CLAIMS SETTLEMENT COMMISSION  
OF THE UNITED STATES  
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

JAMES MORAL CRAVER

Under the International Claims Settlement  
Act of 1949, as amended

Claim No. CU -5114

Decision No. CU 3973

PROPOSED DECISION

This claim against the Government of Cuba, under Title V of the International Claims Settlement Act of 1949, as amended, for \$10,000.00 was presented by JAMES MORAL CRAVER, based upon his asserted ownership of a stock interest in Minera Vulcano, S.A. (Vulcan Mining Corporation), and the nationalization of the corporation's mining concessions by the Government of Cuba. Claimant has been a national of the United States since birth.

Under Title V of the International Claims Settlement Act of 1949 [78 Stat. 1110 (1964), 22 U.S.C. §§1643-1643k (1964), as amended, 79 Stat. 988 (1965)], the Commission is given jurisdiction over claims of nationals of the United States against the Government of Cuba. Section 503(a) of the Act provides that the Commission shall receive and determine in accordance with applicable substantive law, including international law, the amount and validity of claims by nationals of the United States against the Government of Cuba arising since January 1, 1959 for

losses resulting from the nationalization, expropriation, intervention or other taking of, or special measures directed against, property including any rights or interests therein owned wholly or partially, directly or indirectly at the time by nationals of the United States.

Section 502(3) of the Act provides:

The term 'property' means any property, right, or interest including any leasehold interest, and debts owed by the Government of Cuba or by enterprises which have been nationalized, expropriated, intervened, or taken by the Government of Cuba and debts which are a charge on property which has been nationalized, expropriated, intervened, or taken by the Government of Cuba.

Claimant, JAMES MORAL GRAVER, has submitted an original stock certificate for 100 shares of Minera Vulcano, S.A. An affidavit of the Secretary-Treasurer of the company establishes that claimant prepaid \$10,000.00 on May 21, 1959 for his stock interest.

Minera Vulcano was organized in Cuba on May 24, 1959 with 2,500 shares of stock authorized at a par value of \$100.00. The corporation was to engage in mining operations in Cuba.

On November 17, 1959 the Cuban Government published its Law 617 by virtue of which mining rights in Cuba were taken (see Claim of John El Koury, Claim No. CU-0384). Accordingly, the Commission finds that property rights and interests of Minera Vulcano, S.A. were taken on November 17, 1959.

As a corporation organized under the laws of Cuba, Minera Vulcano, S.A. does not qualify as a national of the United States within the meaning of Section 502(1)(B) of the Act, supra. It has been previously held that an American stockholder, owning an interest in such a corporation, may file a claim based upon his stock which represents an ownership interest in the nationalized enterprise within the meaning of Section 502(3) of the Act. (See Claim of Parke, Davis & Company, Claim No. CU-0180, 1967 FCSC Ann. Rep. 33.)

The Act provides in Section 503(a) that in making determinations with respect to the validity and amount of claims and value of properties, rights, or interests taken, the Commission shall take into account the basis of valuation most appropriate to the property and equitable to the claimant, including but not limited to fair market value, book value, going concern value, or cost of replacement.

The question, in all cases, will be to determine the basis of valuation which, under the particular circumstances, is "most appropriate to the property and equitable to the claimant". This phraseology does not differ from the international legal standard that would normally prevail in the evaluation of nationalized property. It is designed to strengthen that standard by giving specific bases of valuation that the Commission shall consider.

Minera Vulcano, S.A. was the owner of four mining rights or concessions, known as Yuca #155, Carpintero #157, Grande #221 and Pequena #220 covering a total area of 240 hectares, situated approximately 25 kilometers east of Santiago de Cuba. The extraction of the iron ore was done by the firm of Peterson and Hurn, a third party. Peterson and Hurn actually mined 6,000 tons of iron ore which was still on the ground when the mining concession was taken by the Government of Cuba. Inasmuch as the Minera Vulcano, S.A. was organized under the laws of Cuba on May 24, 1959 and its mining rights were taken by the Government of that country on November 17, 1959, the corporation never issued any balance sheets or other financial statements. However, information regarding the value of the corporate assets has been obtained from the Report on Iron Ore Properties of Minera Vulcano, S.A., prepared as of October 21, 1959 by Arnold H. Miller, a consulting engineer in New York City. This report concludes that the Yuca, Grande and Pequena claims had an estimated total of 11,986,200 metric tons of iron ore with an average iron content of 65.73%.

In the circumstances, the Commission finds that the value of \$100.00 per share of stock, the amount paid by claimant for the stock on May 21, 1959 is the measure most appropriate to the property and most equitable to the claimant; and concludes that in connection with his ownership of 100 shares of stock, claimant suffered a loss in the amount of \$10,000.00 as a result of the taking of the corporation's above-mentioned mining rights by the Government of Cuba on November 17, 1959.

The Commission has decided that in certification of losses on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

CERTIFICATION OF LOSS

The Commission certifies that JAMES MORAL CRAVER suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of Ten Thousand Dollars (\$10,000.00) with interest thereon at 6% per annum from November 17, 1959 to the date of settlement.

Dated at Washington, D. C.,  
and entered as the Proposed  
Decision of the Commission

OCT 1 1969

*Leonard W. E. Sutton*

Leonard W. E. Sutton, Chairman

*Theodore Jaffe*

Theodore Jaffe, Commissioner

*Sidney Freidberg*

Sidney Freidberg, Commissioner

NOTICE TO TREASURY: The above-referenced securities may not have been submitted to the Commission or if submitted, may have been returned; accordingly, no payment should be made until claimant establishes retention of the securities for the loss here certified.

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

NOTICE: Pursuant to the Regulations of the Commission, if no objections are filed within 15 days after service or receipt of notice of this Proposed Decision, the decision will be entered as the Final Decision of the Commission upon the expiration of 30 days after such service or receipt of notice, unless the Commission otherwise orders. (FCSC Reg., 45 C.F.R. 531.5(e) and (g), as amended, 32 Fed. Reg. 412-13 (1967).)